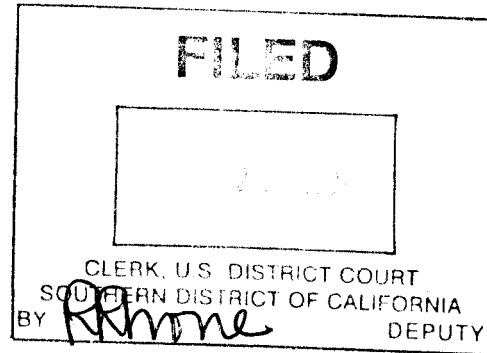


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UNITED STATES OF AMERICA



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Magistrate Case No. 07MJ2723
)	
Plaintiff,)	
)	
v.)	STIPULATION OF FACT AND JOINT
)	MOTION FOR RELEASE OF
)	MATERIAL WITNESS(ES) AND
HUBER MATIAS RIOS-DIAZ,)	<u>ORDER THEREON</u>
)	
Defendant.)	
)	(Pre-Indictment Fast-Track Program)

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **December 21, 2007**.

6 4. The material witnesses, Nadia Paula Castaneda-Munoz and Arturo Sanchez-Lopez,
7 in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;

9 b. Entered or attempted to enter the United States illegally on or about
10 November 20, 2007;

11 c. Were found in a vehicle driven by defendant near San Ysidro, California and
12 that defendant knew or acted in reckless disregard of the fact that they were aliens with no lawful
13 right to enter or remain in the United States;

14 d. Were having others pay on their behalf \$1,500 - \$3,000 to others to be brought
15 into the United States illegally and/or transported illegally to their destination therein; and,

16 e. May be released and remanded immediately to the Department of Homeland
17 Security for return to their country of origin.

18 5. After the material witnesses are ordered released by the Court pursuant to this
19 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
20 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
21 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

22 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
23 substantive evidence;

24 b. The United States may elicit hearsay testimony from arresting agents
25 regarding any statements made by the material witness(es) provided in discovery, and such testimony
26 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
27 of (an) unavailable witness(es); and,

1 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
2 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
3 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
4 waives the right to confront and cross-examine the material witness(es) in this case.

5 6. By signing this stipulation and joint motion, defendant certifies that defendant has
6 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
7 further that defendant has discussed the terms of this stipulation and joint motion with defense
8 counsel and fully understands its meaning and effect.

9 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
10 immediate release and remand of the above-named material witness(es) to the Department of
11 Homeland Security for return to their country of origin.

12 It is STIPULATED AND AGREED this date.

13 Respectfully submitted,

14 KAREN P. HEWITT
15 United States Attorney

16 Dated: 12/20/07.

17 
CARLA J. BRESSLER
Assistant United States Attorney

18 Dated: 12/19/07.

19 
JAMI L. FERRARA
20 Defense Counsel for Rios-Diaz

21 Dated: 12/19/07.

22 
HUBER MATIAS RIOS-DIAZ
23 Defendant

ORDER

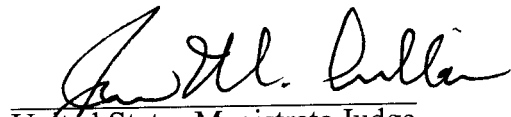
Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 12/20/07.


United States Magistrate Judge